United Nations S/2010/183

Security Council

Distr.: General
13 April 2010

Original: English

Report of the Secretary-General on children and armed conflict in Nepal

I. Introduction

1. The present report, prepared in accordance with the provisions of Security Council resolution 1612 (2005), covers the period from January to December 2009. The report examines trends in violations of children's rights and provides information on progress on the grave violations against children in Nepal. It provides an update and follow-up to the recommendations in the previous report of the Secretary-General (S/2008/259) and the conclusions on children and armed conflict in Nepal of the Working Group on Children and Armed Conflict (S/AC.51/2008/12).

2. The data on specific incidents of violations against children included in the present report have been compiled from information documented by the Nepal country Task Force on the monitoring and reporting mechanism established pursuant to resolution 1612 (2005). The information provided includes violations perpetrated by parties to the conflict in Nepal, including youth wings and front organizations affiliated with the parties, as well as armed groups operating in the Tarai (southern plains of Nepal) and eastern hill regions.

3. This report does not provide an exhaustive account of violations committed against children, as the security situation makes it difficult for victims and their families to report such violations and restricts the ability of the Task Force to routinely verify them, especially in the Tarai and the eastern hills.

4. Significant progress was made in the latter part of 2009 in planning for the discharge and rehabilitation of the 4,008 disqualified Maoist army personnel, including 2,973 verified as minors. After several months of discussion, on 16 December, an Action Plan for the discharge and rehabilitation of the disqualified Maoist army personnel verified as minors was signed by representatives of the Government of Nepal and the Unified Communist Party of Nepal-Maoist (UCPN-M) and the Resident and Humanitarian Coordinator and the representative of UNICEF in Nepal, on behalf of the United Nations. The discharge subsequently began on 7 January and ended on 8 February 2010.

5. Friction between youth wings of the major political parties continued, mainly the Young Communist League (YCL), affiliated with UCPN-M, the Youth Force, affiliated with the Communist Party of Nepal-United Marxist Leninist (CPN-UML),

10-27578 (E) 190410

Please recycle

and to a lesser extent the Nepali Congress-affiliated Tarun Dal, and anecdotal evidence indicates that children are being put at risk and used by the youth wings and agitating groups for conducting protests, demonstrations, extortion and violent activities.

6. Strikes (referred to as "bandhs") and protests by various groups continued across the country, often severely disrupting daily life. They resulted in the frequent closure of schools, which has had a negative impact on children's right to education, particularly in the Tarai region.

II. Political, military and social developments

A. Progress in the peace process

7. The modest progress made in some aspects of the peace process during the first quarter of 2009 was subsequently stalled, owing to a deterioration in relations among key stakeholders, notably between UCPN-M and the other major parties and between UCPN-M and the Nepal Army. On 3 May, the President, Ram Baran Yadav, reversed the Maoist-led Cabinet's decision to dismiss the Chief of Army Staff, General Rookmangud Katawal. The following day, the then Prime Minister, Pushpa Kamal Dahal "Prachanda", who is the Chairman of UCPN-M, resigned. On 23 May, the senior leader of CPN-UML, Madhav Kumar Nepal, was elected Prime Minister with the support of 22 political parties represented in the Constituent Assembly. A new coalition Government was established and UCPN-M entered into the opposition. A protracted political stalemate between the three major parties, UCPN-M, CPN-UML and the Nepali Congress, ensued on some key issues relating to the peace process.

8. The stalemate was lifted briefly from 23 to 25 November to allow adoption of the budget for the fiscal year 2009-2010, averting a crisis. On 23 December, UCPN-M ended an almost seven-month obstruction of the work of the Legislature-Parliament. This has allowed work to start on a significant backlog of legislation including the Child Rights Protection and Promotion Bill. In December, the Constituent Assembly amended its workplan for the eighth time, making it difficult to meet the deadline of 28 May 2010 for promulgation.

9. The Special Committee to supervise, integrate and rehabilitate Maoist army personnel made little substantive progress in its work during 2009, because of lack of agreement between the major parties on the way forward. Dialogue between the parties continued, however, and, towards the end of December, it was reported that the Prime Minister intended to present to the Committee an action plan for the integration and rehabilitation process of the 19,602 verified Maoist army personnel.

B. Discharge of Maoist army personnel verified as minors

10. Throughout the year, teams from the United Nations Development Programme (UNDP), UNICEF and the United Nations Population Fund (UNFPA), along with the Child Protection Unit of the United Nations Mission in Nepal (UNMIN), continued planning for the discharge and rehabilitation process and rehabilitation support after discharge.

11. An Action Plan was signed by the Government, UCPN-M and the United Nations on 16 December 2009, in accordance with the Nepal peace agreements, the recommendation in the report of the Secretary-General (S/2008/259) and the conclusions of the Working Group on Children and Armed Conflict (S/AC.51/2008/12). The Action Plan outlined a concrete time-bound framework for the immediate and unconditional discharge of the disqualified Maoist army personnel verified as minors who remained in the cantonments. The signing of the Action Plan, witnessed by the Minister for Peace and Reconstruction, Rakam Chemjong, the Chairman of UCPN-M, Pushpa Kamal Dahal "Prachanda", the Representative of the Secretary-General in Nepal, Karin Landgren, and the Special Representative of the Secretary-General for Children and Armed Conflict, Radhika Coomaraswamy, was a significant step forward in the Nepal peace process. The official discharge of the disqualified Maoist army personnel verified as minors started on 7 January 2010 at Main Cantonment Site 2 in Sindhuli district, and was completed in all seven Main Cantonment Sites by 8 February 2010, resulting in the discharge of 1,843 personnel verified as minors. The remainder of the caseload, 1,130 children, did not present themselves as many had fled on earlier occasions or were fearful of returning to the cantonments. Those children will obtain discharge notifications and will be traced in their home communities for assistance and protection. The negotiation of the Action Plan was led by UNMIN, including its child protection section, with UNICEF and UNDP participation.

12. On the basis of the Action Plan, an operational plan has been developed and agreed upon by the United Nations and UCPN-M. The plan outlines the steps of the discharge process, including a pre-discharge screening of the disqualified personnel against the database established during the verification process, and a briefing and orientation by the United Nations and the Maoist army on the discharge process and available rehabilitation support. The United Nations has monitored the discharge process inside the cantonments, and will follow up the implementation of the Action Plan outside the cantonments after the discharge process.

13. Under the Action Plan, UCPN-M commits itself to ensuring that the minors can freely and independently determine their areas of return or resettlement and, if they so wish, avail themselves of rehabilitation support. Dischargees may choose one of four rehabilitation packages, namely, education grant, vocational training, business training, or health-care training. Although UCPN-M officially rejected these rehabilitation packages, the party agreed to proceed with the discharge process on the understanding that the packages from the Government, with United Nations support, will remain available to those disqualified.

14. The Communist Party of Nepal-Maoist, and subsequently UCPN-M, has been listed in the annexes to the previous five annual reports of the Secretary-General among parties to conflict who have recruited and used children. Compliance with the Action Plan is necessary for them to be de-listed from the report. The United Nations has underlined its concern about any future possible induction of those disqualified as minors into any groups engaged in violence. A United Nations monitoring team, jointly led by UNICEF, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and UNMIN, will continue to monitor and will verify the full compliance of UCPN-M with the Action Plan, including access of dischargees to rehabilitation assistance, and re-recruitment or engagement of any dischargees in violent acts. The team will also follow up on the commitment made by the UCPN-M Chairman to my Special Representative in December 2009

that no dischargees will be allowed to associate themselves with YCL or any other UCPN-M group which engages in violent activities.

C. Security situation in the Tarai

15. Public security remained an issue of serious concern in many Tarai districts, where the population, including children, continued to be victims of armed groups. In response to the deteriorating security situation, the Government announced a new special security plan in July 2009 which includes an extension of the Armed Police Force and an overall increase in police presence in the Tarai, mid-western and eastern hill districts. The Government has indicated that violent activities in some parts of the country have decreased since the plan was implemented. Concerns have been raised, however, about an increase in the number of arrests of persons allegedly associated with armed groups or criminal syndicates and ill-treatment of detainees by the security forces. Armed group activities were also reported in some hill districts, including Khotang and Bhojpur, where the Kirat Janabadi Workers Party continued intimidation and extortion activities.

16. In August 2009, an assessment of protection concerns of children was carried out by UNICEF in nine Tarai districts. It concluded that, despite some improvement in the public security situation, violence and lawlessness in the Tarai has had a negative impact on the education of children and contributed to an increased dropout rate in schools. Some children were also found to be involved with Tarai armed groups as messengers and in some cases of cross-border smuggling. Threats, coercion and economic necessity were factors that contributed to children's involvement with the armed groups. Anecdotal evidence suggests that some armed groups provide economic incentives to the children's families for their initial involvement and that children are paid on a case-by-case basis according to the nature of their involvement.

D. Activities of youth wings of political parties

17. Youth groups affiliated with political parties and movements have continued to proliferate. Reports indicate that many children are involved in the youth wings, whose activities include violent protests that can place children at risk. While all the concerned political parties are accountable for the activities of their respective youth wings and should ensure that those activities are carried out within the limits of the law, a particular responsibility rests with UCPN-M to fulfil its commitments to end the violent activities of YCL and ensure that its sister organizations fully comply with the laws of the country.

18. Friction between youth wings of the political parties has continued, with violent clashes occurring between cadres of the UML-affiliated Youth Force and YCL in the eastern and mid-western regions early in November and in December, respectively, resulting in injuries on both sides. Some ethnic and identity-based groups, notably in eastern Nepal, have continued to conduct extortion drives. Evidence suggests that children are being put at risk and used by the youth wings and agitating groups in conducting protests, demonstrations, extortion and violent activities such as clashes with other youth groups and security forces.

III. Grave violations of children's rights

19. The commitment by UCPN-M to implement the Action Plan for the discharge of the Maoist army personnel verified as minors is a positive step towards respecting its national and international commitments. Meanwhile, the volatile political and security situation in the country has caused concerns with regard to children's safety. In the eastern and central Tarai districts armed groups continue to carry out extortion and kidnapping of children for ransom. Children continue to be killed or injured by improvised explosive devices planted by armed groups, including UCPN-M and certain Tarai armed groups, and mines laid by the Nepal security forces during the more active phases of the conflict there. During the reporting period, 27 cases of children injured or killed by improvised explosive devices were verified.

A. Recruitment and use of children

20. While no cases of active recruitment of children into armed forces or armed groups were documented, the continuing use of children in political violence remains a concern. Although it is difficult to verify whether children are being used in a specific political demonstration or protest, monitors observed large numbers of children participating in protest rallies and demonstrations organized by political parties, particularly UCPN-M and its sister organizations, YCL and the All Nepal National Independent Student Union-Revolutionary (ANNISU-R), and by several identity-based organizations. Of 42 protests and demonstrations where the Task Force documented significant numbers of children, including children in school uniform, 14 were organized by UCPN-M and its sister organizations. The use of children by identity-based organizations is also a growing concern. The Pallo Kirat Limbuwan National Front, an identity-based organization operating in the eastern hill districts, allegedly used four children for "fund-raising" activities, and the Tharuhat Autonomous State Council provided training in martial arts to children in Dang district. In view of the planned promulgation of a new constitution in May 2010 and the debate regarding a new federal structure, there is potential for more ethnically based protests and violence, especially in the areas with strong ethnic organizations such as the Tarai and the eastern hills.

B. Abduction

21. Task Force members documented the abduction of four children by YCL on 19 May in Kalikot district in the Far West region; they were later released. Several armed groups, organizations and individuals have continued to engage in criminal activities such as extortion and kidnapping of children for ransom, particularly in the eastern Tarai region. The Task Force reported that six children were kidnapped by unidentified groups for ransom and four for unknown reasons in eastern Tarai districts.

C. Killing and maiming

22. Sixty-four cases of killing and maiming of children were reported, which included 35 cases of victim-activated explosions; there were 28 cases of severe injury, and 8 cases resulted in death. Two 11-year-old boys and a 9-year-old boy from Gulmi district, a 5-year-old boy from Baitadi district, an 8-year-old boy from Bajhang district, a 16-year-old boy from Dang district and two girls, a 14-year-old and a 7-year-old, from Kailali district were killed by improvised explosive devices and hand grenades. The injuries incurred were mainly to upper limbs as improvised explosive devices and hand grenades were the main causes of the incidents. Two children were seriously injured in Pyuthan and Banke districts on 17 May and 19 July, respectively, and a 12-year-old girl in Saptari district sustained a minor injury on 26 January due to the explosion of an improvised explosive device. In another incident, a victim-activated device injured two minors in Arghakhachi district on 23 April. A majority of incidents of death due to improvised explosive devices involved children aged 5 to 14. Moreover, eight cases of targeted explosions were reported, one of which resulted in the death of a girl. In one case of a targeted explosion, a Tarai-based armed group, Tarai Rastriya Mukti Sena, claimed responsibility. In three further cases, other Tarai-based armed groups, including the Madhesi Liberation Tigers, the Nepal Defence Army and the Great Madhesi Revolutionary Army, were identified by the Task Force as perpetrators. Other incidents were carried out by unknown perpetrators.

23. A child was killed and two were injured on 1 October when members of an Armed Police Force team used force after villagers tried to prevent them from leaving a village in Parsa district. According to the Nepal police, the Armed Police Force team, under the command of an Inspector, fired on the group of villagers. Local police also informed the Task Force that a first information report had been filed and the case was under investigation.

24. Regarding the previously reported case of Maina Sunuwar, a 15-year-old girl who was allegedly tortured and killed by Army personnel in 2004, the Kavre District Court issued a decision on 13 September 2009, ordering the Army to produce documents and suspend an alleged perpetrator. The Nepal Army has failed to comply with the order and, a short time before the decision was issued, deployed the suspect in question to serve with the United Nations Mission in the Central African Republic and Chad. In December, the suspect was repatriated to Nepal at the request of the Department of Peacekeeping Operations and placed in Army custody. Until the end of December, he remained in Army custody despite a formal request by the Nepal police and public calls by the National Human Rights Commission, civil society leaders and members of the international community to turn him over to the police so that he could be brought before the Kavre District Court. Senior Nepal Army personnel and the Minister of Defence have made statements challenging the civilian court's jurisdiction over the case, and have indicated that the officer will not be turned over to the police before a military court of inquiry has completed an investigation into the circumstances of the repatriation. OHCHR is following this case.

D. Attacks against schools and hospitals

25. The increasing tendency of political parties and their sister organizations to impose strikes and carry out other types of protest for political and other purposes has had a negative impact on children's rights to education. Such sister organizations include the UCPN-M-affiliated YCL and ANNISU-R, the CPN-UML-affiliated Youth Force, the Nepali Congress-affiliated Tarun Dal and the National Student Union, and various identity-based organizations such as the Limbuwan Freedom Front, the Tharuhat Struggle Committee and the Joint Tharuhat Struggle Committee. One hundred and twenty separate instances of school closures were reported by the Task Force. Thirty-six were related to protests, rallies and demonstrations organized by UCPN-M and its sister organizations, particularly ANNISU-R and YCL. Approximately 80 cumulative school days were lost in 2009 alone.

E. Sexual violence

26. Two cases of sexual violence against children were documented by the Task Force. In both cases, members of State security forces were identified as alleged perpetrators. Three policemen in Dharan allegedly attempted to rape a 14-year-old girl in Sunsari district and a policeman allegedly attempted to rape a 13-year-old girl in Surkhet district. In Sunsari, police conducted an investigation and arrested two perpetrators and the case is now in court. In Surkhet, according to police, the case was not filed but was mediated in the presence of the police. The alleged perpetrator is currently working in the Dolpa District Police Office.

IV. Dialogue and action plans

A. Dialogue with UCPN-M

27. Over the past two years, the United Nations and its partners have been engaged in dialogue with the Maoist forces in Nepal. In December 2008, during her first visit to Nepal, the Special Representative of the Secretary-General for Children and Armed Conflict received a commitment from the then Prime Minister and Chairman of UCPN-M, Pushpa Kamal Dahal "Prachanda", to discharge all Maoist army personnel disqualified as minors. Representatives of UNMIN, UNDP and UNICEF were involved in negotiations in the first quarter of 2009 with the Minister for Peace and Reconstruction in the UCPN-M-led Government for the discharge and rehabilitation of the Maoist army personnel verified as minors, but little substantive progress was made. Dialogue continued between the Minister for Peace and Reconstruction in the UML-led Government, UCPN-M and the United Nations and, on 17 July 2009, the process was officially launched with an information and consultation visit to a Maoist army cantonment site in Nawalparasi district led by officials of the Ministry of Peace and Reconstruction, accompanied by representatives from UNMIN, UNDP, UNICEF and UNFPA. The visits were not entirely satisfactory, as insufficient briefings were provided to the minors by their Maoist commanders at that time.

28. Following repeated commitments by the Government and Maoist leaders to move the process forward and numerous technical-level consultations, a Steering Committee chaired by the Peace and Reconstruction Minister was established, as well as a working-level technical committee to oversee the process. The process was relaunched at Main Cantonment Site 2 in Sindhuli district on 11 October 2009 and information and consultation visits were subsequently carried out by joint Ministry of Peace and Reconstruction, UCPN-M and United Nations teams to all the cantonment sites.

29. On 24 September, my Special Representative for Children and Armed Conflict spoke with the UCPN-M Chairman, and requested in writing that he ensure that the discharge of the minors would be effected without further delay. Prachanda provided an assurance that the discharge would proceed. The visit of my Special Representative in December 2009 assisted the ongoing negotiations by UNMIN and the United Nations country team with the Government and UCPN-M, and resulted in the signing of the Action Plan on 16 December 2009.

30. The United Nations in Nepal, in conjunction with child protection partners, continues to implement the Action Plan, including release, verification and monitoring of children formerly associated with the Maoist group.

B. Child protection initiatives

31. The UNICEF programme, Children Associated with Armed Forces and Armed Groups, has supported approximately 7,500 children and young people formerly associated with the armed forces and armed groups, and 3,000 other children affected by conflict in 58 of the 75 districts of Nepal. The community-based reintegration programme provides education support to individuals and schools; psychosocial support to children, families and communities; vocational training and income generation; community sensitization and awareness-raising; and reconciliation and peacebuilding initiatives. In 2009, a project was initiated in cooperation with UNFPA to address special protection concerns related to acceptance in the community and stigmatization of girls associated with armed forces and armed groups.

32. During the reporting period, the referral mechanism for responses to the documented protection needs of children affected by armed conflict was piloted in 24 districts, with technical assistance from the Children Affected by Armed Conflict Working Group.[1] The referral mechanism enhances coordination for response by the members of the Task Force, the Children Associated with Armed Forces and Armed Groups Working Group implementing agencies and the Mine Action Joint Working Group.

33. The Children Affected by Armed Conflict Working Group finalized an inter-agency rapid assessment of child protection risks including recruitment, abduction and political violence in nine districts in the Tarai. The Working Group is developing prevention and response strategies to address new protection issues in the Tarai.

[1] The Working Group comprises the Nepal country Task Force on the Monitoring and Reporting Mechanism, the Working Group on Children Associated with Armed Forces and Armed Groups and the Mine Action Joint Working Group.

34. In July, the Ministry of Peace and Reconstruction, with the support of Children Affected by Armed Conflict Working Group, held a consultation to ga the views of children on the National Plan of Action for the Reintegration Children Affected by Armed Conflict. In November, the Ministry, with the supp of the Working Group, held a final national consultation with concer stakeholders (Government, United Nations and international and nati non-governmental organizations) on the Plan of Action, which is now u consideration by the Government with a view to its endorsement.

35. To ensure that the structural and organizational framework of the Truth Reconciliation Commission incorporates a focus on children, the Children Affe by Armed Conflict Working Group provided a paper on the Truth and Reconcilia Commission draft bill to the Ministry of Peace and Reconstruction. In November Ministry, with the support of the Working Group, held a children's consultatio the bill aimed at ensuring that it incorporates children's perspectives.

36. Mine risk education activities led by the Department of Education supported by the United Nations Mine Action Team continue to reach teachers children in the 26 districts directly affected by mines. The Steering Committee Mine Action, chaired by the Ministry of Peace and Reconstruction, has establish Task Force[2] which is currently developing a National Mine Action Plan for period 2009-2011, with the aim of reducing the risk of injury or death caused landmines throughout the country.

V. Recommendations

37. I welcome the signing by the Government of Nepal, UCPN-M and the U Nations in Nepal of the Action Plan on the discharge of disqualified Maoist a personnel verified as minors and related tasks, and I call upon the Governme Nepal and UCPN-M to cooperate closely to ensure the full implementation o Action Plan. Furthermore, the Government of Nepal should be provided by United Nations with all necessary assistance for the rehabilitation of the M army personnel disqualified as minors.

38. UCPN-M should ensure that Maoist army personnel disqualified as mi have unhindered access to the rehabilitation packages offered by the Governm and supported by the United Nations.

39. The United Nations should continue monitoring the compliance of UCP with the Action Plan and requirements under Security Council resolutions (2005) and 1882 (2009), with particular attention to whether discharged minor forced or otherwise coerced into association with groups which engage in poli violence.

40. Furthermore, the Government of Nepal should operationalize the National of Action for the Reintegration of Children Affected by Armed Conflict and e the allocation of adequate resources for its effective implementation.

---

[2] Comprising representatives of UNICEF, the United Nations Mine Action Team, the Ministr Peace and Reconstruction, the Nepal Army, the Ministry of Education, UNMIN, UCPN-M the Nepal Campaign to Ban Landmines.

41. Strikes and protests by various groups including YCL and ANNISU-R have continued across the country, in particular in the Tarai. This practice curtails freedom of movement and continues to restrict children's right to education. Political parties and agitating groups are called upon to stop the closure and use of schools during bandhs.

42. All political parties and their affiliated youth wings, including related political and social groups, need to ensure that children are not exposed to or forced to participate in violent activities.

43. Armed groups should stop all violent activities including the use of improvised explosive devices and small arms and stop the recruitment and use of children. All armed groups should publicly commit themselves to ending violations of children's rights, including the recruitment of persons under 18 years of age. Necessary support should be given to strengthen the monitoring and reporting of violations against children in the Tarai, identify responsible armed groups and provide appropriate protection.

44. Public security remains a matter of serious concern, especially in the Tarai and in some hill districts in the eastern region, where many armed groups continue to operate in a climate of impunity.

45. The Government of Nepal is urged to ensure that the draft bills on the Truth and Reconciliation Commission and the Disappearances Commission are fully consistent with international standards and make special provision for children. The meaningful and safe participation of children in transitional justice mechanisms should be ensured.

46. The Government of Nepal should expedite the enactment of the Child Rights Protection and Promotion Bill to ensure the immediate criminalization of recruitment of children to armed groups and armed forces.